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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Aug 30, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

KRISTINA T. STRONG,  
Individually and as Administrator of  
the Estate of Matthew W. Strong,  
deceased,

Plaintiff,

v.

HONEYWELL INTERNATIONAL,  
INC., and PNEUMO ABEX, LLC,

Defendants.

NO: 2:20-CV-136-RMP

ORDER GRANTING IN PART  
DEFENDANT HONEYWELL'S  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT RE  
CONSPIRACY AND BREACH OF  
WARRANTY

BEFORE THE COURT is Defendant Honeywell International Inc.'s  
("Honeywell") Motion for Partial Summary Judgment, ECF No. 56.

The Court heard oral argument on August 27, 2021, via video conference.  
Erin Fraser presented argument on behalf of Honeywell on the Motion for Partial  
Summary Judgment. John Steffan responded on behalf of Plaintiff Kristina T.  
Strong. The Court has reviewed the motion, heard oral argument, and is fully  
informed.

ORDER GRANTING IN PART DEFENDANT HONEYWELL'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT RE CONSPIRACY AND BREACH OF  
WARRANTY ~ 1

1        This is an asbestos case brought by Kristina Strong, individually and as  
2    Administrator of the Estate of Matthew T. Strong. Decedent Matthew Strong  
3    developed peritoneal mesothelioma which Plaintiff alleges was caused by exposure  
4    to asbestos-containing automotive friction products, including Bendix brand brakes  
5    manufactured by Honeywell. *See* ECF Nos. 30, 80 at 1–2.

6        Plaintiff's Second Amended Complaint asserts liability based upon the  
7    theories of product liability; common law negligence; negligent undertaking; strict  
8    product liability under Section 402A and 402B of the Restatement of Torts (and  
9    RCW 7.72 *et. seq.*, as may be applicable to certain supplier-defendants); breach of  
10   warranty (RCW 62A); and conspiracy. ECF No. 30 at 4.

11       Honeywell moved for summary judgment on Plaintiff's claims based upon  
12   (1) failure to warn; (2) conspiracy; and (3) breach of warranty. *See* ECF No. 56.

13       A court may grant summary judgment where “there is no genuine dispute as to  
14   any material fact” of a party’s prima facie case, and the moving party is entitled to  
15   judgment as a matter of law. Fed. R. Civ. P. 56(a); *see also Celotex Corp. v. Catrett*,  
16   477 U.S. 317, 322–23 (1986). A key purpose of summary judgment “is to isolate  
17   and dispose of factually unsupported claims.” *Id.* at 324. The moving party bears  
18   the burden of showing the absence of a genuine issue of material fact, or in the  
19   alternative, the moving party may discharge this burden by showing that there is an  
20   absence of evidence to support the nonmoving party’s prima facie case. *Id.* at 325.

21  
ORDER GRANTING IN PART DEFENDANT HONEYWELL'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT RE CONSPIRACY AND BREACH OF  
WARRANTY ~ 2

With respect to Plaintiff's conspiracy claim, Honeywell contends that "Plaintiff cannot show any agreement among the defendants, much less one contemplating a nefarious purpose." ECF No. 56 at 8 (citing *Corbit v. J.I. Case Co.*, 70 Wn. 2d 522, 528, 424 P.2d 290 (1967)) ("[A]n actionable civil conspiracy exists if two or more persons combine to accomplish an unlawful purpose or combine to accomplish some purpose not in itself unlawful by unlawful means."). Plaintiff did not respond to Honeywell's motion to the extent it seeks dismissal of Plaintiff's claim based on conspiracy. *See* ECF No. 80.

With respect to Plaintiff's breach of warranty claim, Honeywell contends that Plaintiff has not established a prima facie case because "[t]here is no evidence in the record to suggest that Honeywell made an express warranty to Decedent, nor is there any evidence that any Bendix product purchased by Decedent or his father were unsuitable or unfit for their intended purpose." ECF No. 56 at 8. Plaintiff did not respond to Honeywell's motion to the extent it seeks dismissal of Plaintiff's claim based on breach of warranty. *See* ECF No. 80.

Given Plaintiff's non-response, the Court finds that Honeywell has shown that there is an absence of evidence to support a prima facie case for Plaintiff's claims based on conspiracy and breach of warranty. Accordingly, the Court finds that summary judgment is appropriate and Plaintiff's claims based on conspiracy and breach of warranty shall be dismissed with prejudice.

This Order does not resolve Honeywell's Motion for Partial Summary Judgment regarding Plaintiff's claim based on failure to warn. The Court will resolve whether or not partial summary judgment is appropriate with respect to Plaintiff's claim based on failure to warn by a separate and forthcoming order.

**Accordingly, IT IS HEREBY ORDERED:**

1. Defendant Honeywell International Inc.'s Motion for Partial Summary Judgment, **ECF No. 56**, is **GRANTED IN PART** regarding Plaintiff's claims based on conspiracy and breach of warranty only.

2. Plaintiff's claims based on conspiracy and breach of warranty are  
**DISMISSED WITH PREJUDICE.**

3. Judgment shall be entered for Defendant Honeywell International Inc. on Plaintiff's claims for conspiracy and breach of warranty only.

4. Defendant Honeywell International Inc.'s Motion for Partial Summary Judgment on Plaintiff's claim based on failure to warn, ECF No. 56, remains pending and will be resolved by a separate and forthcoming order.

**IT IS SO ORDERED.** The District Court Clerk is directed to enter this Order and provide copies to counsel

DATED August 30, 2021.

*s/ Rosanna Malouf Peterson*  
ROSANNA MALOUF PETERSON  
United States District Judge

**ORDER GRANTING IN PART DEFENDANT HONEYWELL'S MOTION FOR  
PARTIAL SUMMARY JUDGMENT RE CONSPIRACY AND BREACH OF  
WARRANTY ~4**